

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

ALFONSO PERCY PEW,
Plaintiff,

v.

CORRECTIONAL CARE SOLUTIONS,
et al.,
Defendants.

CIVIL ACTION NO. 3:15-CV-783

(Judge Kosik)

ORDER

AND NOW, THIS 23rd DAY OF FEBRUARY, 2016, IT APPEARING TO THE COURT THAT:

(1) Plaintiff, Alfonso Percy Pew, an inmate confined at SCI- Forest, Marienville, Pennsylvania, filed a complaint in the instant action on April 13, 2015 along with a Motion for Appointment of Counsel (Doc. 2) in the United States District Court for the District of Maryland;

(2) The action was transferred to this court on April 20, 2015 (Doc. 3);

(3) On April 24, 2015, this court entered an Order dismissing the complaint pursuant to 28 U.S.C. § 1915(g), the Three Strikes Rule (Doc. 10);

(4) Plaintiff filed a Notice of Appeal in the United States Court of Appeals for the Third Circuit (Doc. 17);

(5) On May 4, 2015, Plaintiff filed a Motion to Vacate the Order Terminating the Case and for Reconsideration (Doc. 13), an Addendum to the Motion to Vacate on May 22, 2015 (Doc. 18), and a Second Addendum and Motion to Reopen the Case on June 8, 2015 (Doc. 19);

(6) The Court of Appeals dismissed the Appeal for failure to prosecute on December 30, 2015 (Doc. 22);

(7) On January 6, 2016, Magistrate Judge Martin C. Carlson filed a Report and Recommendation recommending that the Motions to Reconsider our Order

dismissing the case pursuant to 28 U.S.C. § 1915(g) (Docs. 13 and 19) be denied;

(8) Specifically, the Magistrate Judge set forth the law surrounding motions for reconsideration and the law surrounding 28 U.S.C. § 1915(g), and found that Plaintiff's motions do not sufficiently allege newly discovered facts showing that he was in imminent danger of serious bodily harm at the time he filed the complaint;

AND, IT FURTHER APPEARING THAT:

(9) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(10) Plaintiff has not filed Objections to the Report and Recommendation;

(11) We have reviewed the Report of the Magistrate Judge and concur with his recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Martin C. Carlson filed on January 6, 2016 (Doc. 23) is **ADOPTED**;

(2) Plaintiff's Motion to Vacate and for Reconsideration (Doc. 13) and Addendum and Motion to Reopen (Doc. 19) are **DENIED**;

(3) The action is **DISMISSED without prejudice** to be refiled if Plaintiff pays the filing fee required by law; and,

(4) The Clerk of Court is directed to **FORWARD** a copy of this Order to the Magistrate Judge.

s/Edwin M. Kosik
Edwin M. Kosik
United States District Judge